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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,303	06/19/2001	Garry D. Gladstone	GLADS-001A	4813
7663 7590 06/19/2007 STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			EXAMINER COLBERT, ELLA	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 06/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/884,303	GLADSTONE, GARRY D.	
	Examiner	Art Unit	
	Ella Colbert	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-7 and 10-28 are pending. Claim 5 has been amended in this communication filed 3/26/07 entered as Supplemental Response.
2. The Response After Non-Final Action filed 1/08/07 and the Supplemental Response filed 3/07/07 have been entered.
3. The amendments to the Specification have overcome the objections to the Specification and are hereby withdrawn.
4. The objections to the Title has been overcome by Applicants' amendment to the Title and the objection is hereby withdrawn.
5. The 35 U.S.C. 112 first paragraph rejection for claims 1, 10, and 19 has been overcome by Applicants' amendment to the claims and/or convincing argument in a prior response and is hereby withdrawn.
6. The 35 U.S.C. 112, second paragraph for claims 1-7 overlapping two statutory classes of invention is hereby withdrawn in view of Applicants' convincing arguments filed in a prior response.
7. The 35 U.S.C. 101 rejection for claims 1-7 is hereby withdrawn for the reason discussed above in number 6.

As a Preliminary matter, the references on page 11 of the specification are missing from the file. The references are: "Voice and Data Communications Handbook", Bud Bates and Donald Gregory, 1998, McGraw-Hill, and "ISP Survival Guide: Strategies for Running an Competitive ISP", Geoff Huston, 1998, John Wiley & Sons, Inc.. Applicants' are respectfully requested to resubmit these reference for

consideration in order to give the application a proper examination and to determine patentability.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 1 recites the limitation "the user" in 1 (a). 1(a) should recite "a user" and "by a market analysis ..., a trade trigger criteria being related to said market data;". The first time that "user" is mentioned it should be "a user" and the same applies to the other part of 1(a). There is insufficient antecedent basis for these limitations in the claim.

Claims 1, 2-7, 10, 12-19, and 21-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 7, 10, 14, 18, 19, 25, 27, and 28 are unclear from reading the Specification and from the drawing figure what Applicants' "trade trigger criteria" really is and what functions it performs. "Trade trigger criteria" is mentioned on pages 3-5, 7-9, 12-15, and 17-19 of the Specification. I realize the "trade trigger criteria" was discussed in a prior interview some months ago. However, it is still unclear and vague.

Also, claims 1, 2, 4-6, 10, 12-17, 19, 21-26, and 28 recite "market analysis software". It is unclear and vague from the Specification and the drawing what function(s) the "market analysis software" performs other than to receive trade trigger criteria, market data, and to generate a trade decision. Does Applicants' software

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analyze the market conditions according to the highs and lows of the market and the bidding? How is this software different than any other software that is known by the Applicant in the trading art?

Any submission by Applicants' that will assist the Examiner in understanding Applicants' "trade trigger criteria" and how the "market analysis software" is and what they do in relation to the novelty of the invention and assist in determining patentability of the invention would be greatly appreciated.

Claims 2-7, 11-18, and 20-28 are also rejected because of their dependency from a rejected base claim.

Conclusion: Once these issues have been resolved and after an updated search has been performed, if there are no new art references found to reject the claims the application will be allowed.


Inquiries

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Wednesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ELLA COLBERT
PRIMARY EXAMINER